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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/547,531	07/31/2006	Kenji Fukui	75772-010500/US	3797
33717 7590 08/14/2008 GREENBERG TRAURIG LLP (L.A.) 2450 COLORADO AVENUE, SUITE 400E INTELLECTUAL PROPERTY DEPARTMENT SANTA MONICA, CA 90404				
EXAMINER				
MENDEZ, ZULMARIAM				
ART UNIT		PAPER NUMBER		
1795				
MAIL DATE		DELIVERY MODE		
08/14/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/547,531

Applicant(s)

FUKUI ET AL.

Examiner

ZULMARIAM MENDEZ

Art Unit

1795

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date 09/12/2007.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

1. In the Information Disclosure Statement (IDS) of September 12, 2007 submitted by the applicant, the examiner has considered the cited European Search Report but it has been lined through as it is not a printed publication available to the public, and as such will not be printed on the face of the patent if one is to issue.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Ezzell et al. (US Patent no. 4,265,719).

With regard to claims 1, 5 and 6, Ezzell discloses an electrolysis cell comprising: a structure having at least one inlet channel (32, col. 4, lines 59-61), a first outlet channel (34), and a second outlet channel (128, see figure 1); said structure accommodates a flat proton ion exchange membrane (12, col. 8, lines 10-12) placed in between two flat mesh electrodes (col. 3, lines 66-68; col. 4, line 1; col. 10, lines 61-62; col. 12, lines 21-22); and a power source to apply electricity to said electrodes (col. 4, lines 26-35). Even though Ezzell does not explicitly disclose wherein the inlet and outlets are for intake of water and output of Free Radical Solution water and hydrogen

rich water, respectively, the last one being degassed for re-use, it is merely the intended use of the apparatus and is not given patentable weight. See MPEP 2111.04

With regard to claim 2, Ezzell further discloses wherein each of said flat mesh electrodes (col. 3, lines 66-68; col. 4, line 1; col. 10, lines 61-62; col. 12, lines 21-22) is comprised of two layers with a first layer having large protuberances and a second layer having smaller protuberances compared with said first layer's larger protuberances (col. 7, lines 20-31).

With regard to claims 3 and 4, Ezzell teaches wherein said first layer with large protuberances is juxtaposed distal away from the proton ion exchange membrane surface (col. 10, lines 21-24) whereas the second layer with smaller protuberances is juxtaposed facing the proton ion exchanged membrane (col. 10, lines 30-32).

With regard to claims 7 and 8, Ezzell discloses a control circuit that adjusts inlet water flow and/or electric power (col. 11, lines 11-23; see also table 1 – variation of current density).

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ZULMARIAM MENDEZ whose telephone number is (571)272-9805. The examiner can normally be reached on Monday-Thursday, 8:30am-5:00pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexa Neckel can be reached on 571-272-1446. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Z. M./
Examiner, Art Unit 1795

/Alexa D. Neckel/
Supervisory Patent Examiner, Art Unit 1795